



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,427	04/12/2004	Liam Casey	120-343	2564
76661 7590 12/31/2009 DAVID A. DAGG, ESQ. 44 CHAPIN ROAD NEWTON, MA 02459				
EXAMINER GAY, SONIA L				
ART UNIT		PAPER NUMBER		
2614				
NOTIFICATION DATE		DELIVERY MODE		
12/31/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DAVE@DAVEDAGG.COM

Office Action Summary

Application No.

10/822,427

Applicant(s)

CASEY ET AL.

Examiner

SONIA GAY

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 6, 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/CD)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This action is in responses to Amendment submitted on 10/20/2009. The text of those sections of title 35, U.S. Code not included in this action can be found in a prior Office action.

Response to Amendment

1. The amendment submitted October 20, 2009 has been entered. Claims 6 and 13 have already been canceled. No claims have been added. Claims 1-5, 7-12 and 14-18 are still pending in the application, with claims 1 and 8 being independent.

Claim Rejections - 35 USC § 103

2. Claims 1, 5, 8, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baeder (US 2004/0156356) in view of Gleneck (US 2002/0041588).

For claims 1 and 8, Baeder et al. discloses a method and system including at least one processor and a computer readable memory (Abstract; [0044]) for providing voice communications over a packet-based data communication network, comprising: request processing logic for receiving a call request ([0020]); gateway determining logic for determining whether the requested call would remain local ([0009][0016 - 0022]); packet size increasing logic for responsive to determination that the call would remain local, increasing the size of the packets used in the call (*if the caller and the called party have the same prefix, the call is a local call*, [0009][0022]). Yet, Baeder et al. fails to explicitly teach wherein remaining local is

determined by whether a call would span a gateway, wherein the gateway connects a local network to an external network.

However, Baeder et al. discloses that the gateway is a media gateway for the purpose of transmitting voice over the Internet ([0012][0013]). Moreover, Gleneck discloses a media gateway used for the purpose of transmitting voice over the Internet wherein a single gateway uses dialed numbers to determine whether the a call would remain local, not span the gateway, or be long- distance, span the gateway; and routes the local calls which do not span the gateway to parties connected directly to the gateway in a local network and the remote, long distance calls which do span the gateway to parties connected remotely to the gateway in an external network ([0004 -0006] [0039] [0050] [0051]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the teachings of Baeder with the teachings of Gleneck so that the determining step disclosed above in Baeder comprises determining whether a call would remain local and not span a gateway or be long distance and span the gateway for the purpose of transmitting voice over the Internet using voice data packets of varying size.

For claims 5 and 12, Baeder further discloses wherein said increasing said packets used in said call comprises increasing said size of packets used in said call to a packet size above a default packet size (Baeder, [0048]).

3. Claims 2 – 3, 7, 9-10, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baeder(US 2004/0156356) in view of Gleneck(US 2002/0041588), and further in view of Michelson et al. (US 7,283,541).

For claims 2 -3, and 9-10, Baeder teaches a delay determining logic for determining whether a total delay for the requested call would exceed a predetermined maximum delay if the length of the packet is increased for the requested call responsive to stored information in a call server system indicating whether a called party phone is local to a calling party phone; or a directory number of a calling party phone and a directory number of called party phone and wherein the packet size increasing logic increases the size of the packets used in the requested call only in the event that the delay for the call can be increased without exceeding the predetermined maximum delay ([0021- 0033][0044][0036 - 0040][0046 - 0048]). Yet, Baeder fails to teach increasing the packetization delay component to increase the packet length.

However, Michelson et al. discloses determining whether a total delay for the requested call would exceed a predetermined maximum delay if a packetization delay component is increased, thereby increasing the packet length, for the requested call (Abstract; column 2 lines 29 – 32; column 4 lines 62 – column 5 line 54; column 6 lines 40 – 53; column 7 lines 56 - 65) for the purpose of adjusting packet sizes in a local voice over Internet Protocol call (Abstract).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the teachings of Baeder with the teachings of Michelson et al. to determine whether a total delay for the requested call would exceed a predetermined maximum

delay if a packetization delay component is increased to increase the length of the packet for the purpose of adjusting packet sizes in local VoIP call as disclosed above in Baeder.

For claims 7 and 14, the teachings of Baeder and Michelson et al. further disclose wherein said maximum delay is a value that cannot be exceeded without adversely impacting the voice quality of the call (Baeder, [0040])(Michelson et al., column 1 lines 64 – column 2 line 2).

4. Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baeder(US 2004/0156356) in view of Gleneck(US 2002/0041588), and further in view of Kotabe et al. (US 2003/021904).

For claims 4 and 11, Baeder fails to teach determining whether a calling party phone and a called party phone can process an increased packet size, and only increasing said size of packets used in the call in the event that both said calling party phone and said called party phone can process said increased packet size.

However, Kotabe et al. discloses a method and system of a calling party using a query packet to notify a called party of a maximum delay quantity of a packet transfer ([0024] [0025] [0061][0062]) for the purpose of the enabling the called party to adaptively determine and optimize its own received packet buffering quantity for voice call quality in the system ([0037]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the teachings of Baeder with the teachings of Kotabe et al. to

enhance the functionality of the determining logic disclosed above in Baeder by sending a query packet to notify the called party of the total delay associated with an increased packet size for the purpose of enabling the called party to determine and optimize the received packet buffer to handle these packets.

5. Claims 15 - 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baeder(US 2004/0156356) in view of Gleneck(US 2002/0041588), and further in view of Syvanne (US 2002/0095529).

For claims 15 - 18, the teachings of Baeder and Gleneck further disclose wherein the local network is a wireless network (Baeder, [0003][0012][0013]); wherein the external network is the Internet (Baeder, [0013]); wherein a calling party or called party phone terminated the requested call is located on the local wireless network (Baeder, [0003][0012][0021])(Gleneck, [0006][0049]); and, determining whether the requested call would span a gateway connecting a local network to an external network further comprises determining whether a called party or calling party is being used remotely on the external network through the gateway (Baeder, [0017-0022])(Gleneck, [0004 -0006][0050][0051]). Yet, the teachings of Bader and Gleneck fail to teach wherein the gateway connecting the local network to the external network is a virtual private network gateway.

However, Syvanne discloses that gateway connecting a local and external network can be a virtual private network gateway for the purpose of protecting the local network ([0004][0005]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the teachings of Baeder and Gleneck with the teachings of Syvanne so that the gateway connecting the local network to the external network disclosed above in Baeder and Gleneck functions as a virtual private network gateway for the purpose of providing the additional functionality of protecting the local network.

Response to Arguments

6. Applicant's arguments filed 10/20/2009 with respect to the rejection(s) of claim(s) 1-5, 7-12, 14-18 have been fully considered but they are not persuasive. On pages 9-10, Applicant argues that the combination of Baeder and Gleneck fail to teach or disclose "determining whether the requested call would span a gateway connecting a local network to an external network." In paragraphs 16-22, Baeder discloses varying packet size by determining the spatial distance between a caller and callee wherein spatial distance comprises different categories including local call. In paragraphs 4-6, Gleneck defines a local call as one which does not span a gateway. Therefore, the combination discloses the above claim limitation. Baeder examines the prefix of the caller and callee numbers to determine the classification of the call, i.e. local call. Additionally, Gleneck examines the numbers to determine the classification of the call, wherein the call classification comprises spanning or not spanning a gateway. So, in determining whether a call is local or long distance, Bader is further determining whether a call spans a gateway or doesn't span a gateway.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SONIA GAY whose telephone number is (571)270-1951. The examiner can normally be reached on Monday to Thursday from 7:30 AM to 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar can be reached on (571) 272-7488. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ahmad F Matar/
Supervisory Patent Examiner, Art Unit 2614

/Sonia Gay/
Examiner, Art Unit 2614
December 24, 2009